

A Regular Meeting of the City Council was held Tuesday, April 3, 2012 at 8:10 PM in the Council Chamber in City Hall, 111 Outwater Lane, Garfield, NJ 07026.

Mayor Frank J. Calandriello presided. City Clerk Andrew J. Pavlica announced that the meeting was being held in accordance with provisions of the Open Public Meetings Act and that adequate notice was provided by mail and fax to the official City newspapers and to other interested parties and by posting the meeting notice on the bulletin boards in City Hall.

Councilmembers Present: Tana M. Raymond, Joseph Delaney, Louis G. Aloia and Frank J. Calandriello

Also Present: City Manager Thomas J. Duch, City Clerk Andrew J. Pavlica, Deputy City Clerk Diane Rosolen, City Attorney Joseph J. Rotolo, Labor Counsel Joseph Randazzo, City Engineer Kevin J. Boswell, Superintendent of Public Works Sam Garofalo, Police Chief Kevin Amos, Emergency Management Coordinator Michael Marsh, Fire Official Gerald Walis, Interim Chief Financial Officer Roy Riggiano and City Auditor Dieter Lerch

#### REPORTS OF OFFICERS

Councilmember Raymond moved to approve the Reports of the Cabinet as presented orally and in writing during the Work Session held earlier this evening. Councilmember Delaney duly seconded the motion.

On call of roll, Ayes 4, Vacancy 1

#### PUBLIC HEARING ON THE 2012 MUNICIPAL BUDGET

Mayor Calandriello declared a public hearing on the 2012 Municipal Budget and asked if there were anyone present to speak for or against the introduced Budget or had any questions or comments regarding the same.

Mr. Frank Vermeulen, 57 Schley Street, asked questions concerning the 2012 Municipal Budget.

There being no one else desirous of speaking on the 2012 Municipal Budget, Mayor Calandriello declared the public hearing closed.

#### AMENDMENT TO THE 2012 MUNICIPAL BUDGET

Resolution No. 12-104

Resolution Re: Resolution to Amend 2012 Budget

WHEREAS, the local municipal budget for the year 2012 was approved on the 7<sup>th</sup> day of February, 2012, and

WHEREAS, the public hearing on said budget has been held as advertised, and

WHEREAS, it is desired to amend said approved budget,

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the City of Garfield, County of Bergen, that the following amendments to the approved budget of 2012 be made:

CURRENT FUND	<u>From</u>	<u>To</u>
3. Miscellaneous Revenues		
Section G: Special Items of General Revenue		
Anticipated with prior Written Consent of		
Division of Local Government Service-		
Other Special Items		
Reserve for Terminal Pay	\$100,000	
Total Section G: Other Special Items	1,410,000	1,310,000
Total Miscellaneous Revenues	6,452,868	6,352,868

5.	Subtotal General Revenues	9,552,868	9,452,868
7.	Total General Revenues	<u>\$32,329,229</u>	<u>\$32,229,229</u>
		<u>From</u>	<u>To</u>
8.	General Appropriations		
	(A) Operations Within "CAPS"		
	Public Safety		
	Police Department		
	Salary and Wages	7,738,310	7,638,310
	Total Operations within "CAPS"	\$22,540,739	\$22,440,739
	Detail:		
	Salaries & Wages	\$11,687,986	\$11,587,986
	Total General Appropriations within "CAPS"	25,393,270	25,293,270
	Operation Excluded from "CAPS"		
(L)	Subtotal General Appropriations	30,529,229	30,429,229
9.	Total General Appropriations	<u>\$32,329,229</u>	<u>\$32,229,229</u>

BE IT FURTHER RESOLVED, that two certified copies of this resolution be filed forthwith in the Office of the Director of the Division of Local Government Services for certification of the 2012 local municipal budget so amended.

On call of roll, Ayes 4,  
Vacancy 1

(Sgd) Louis G. Aloia  
Tana M. Raymond

ADOPTION OF THE 2012 MUNICIPAL BUDGET

Resolution No. 12-105

See

the

following pages\_\_\_\_\_

for

the

Adoption of 2012 Municipal Budget

RESOLUTIONS

Resolution No. 12-106

WHEREAS, Fire Company No. 1 has advised that they have accepted Ana R. Castillo of 150 Meade Avenue, Passaic, New Jersey 07055, as a regular active member, effective March 28, 2012, NOW THEREFORE BE IT RESOLVED by the City Council of the City of Garfield, Bergen County, New Jersey that the action taken by Fire Company No. 1 with respect to the above matter, is hereby approved.

On call of roll, Ayes 4,  
Vacancy 1

(Sgd) Louis G. Aloia  
Tana M. Raymond

Resolution No. 12-107

WHEREAS, Fire Company No. 3 has advised that they have accepted Patrick C. Ducey of 67 Farnham Avenue Apt #3, Garfield, New Jersey 07026, as a regular active member, effective April 2, 2012, NOW THEREFORE BE IT RESOLVED by the City Council of the City of Garfield, Bergen County, New Jersey that the action taken by Fire Company No. 3 with respect to the above matter, is hereby approved.

On call of roll, Ayes 4,  
Vacancy 1

(Sgd) Louis G. Aloia  
Tana M. Raymond

Resolution No. 12-108

RESOLUTION AUTHORIZING TEMPORARY APPOINTMENT OF ACTING DEPUTY MAYOR

WHEREAS, pursuant to Local Ordinance, STANLEY MOSKAL, was appointed Deputy Mayor for the City of Garfield; and

WHEREAS, pursuant to the provisions of State and local law, the Deputy Mayor shall serve in the place of the Mayor and perform all functions of the Mayor in the Mayor's absence; and

WHEREAS, on April 21, 2012, it will be necessary and appropriate to temporarily appoint LOUIS G. ALOIA as Deputy Mayor for the City of Garfield in order to perform a single act, to wit, the re-marriage ceremony of PATRICIA A. SZEKELY and JAMES L. SZEKELY.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Garfield, County of Bergen and State of New Jersey as follows:

1. Councilman LOUIS G. ALOIA be and is hereby appointed Deputy Mayor for the City of Garfield for April 21, 2012 to perform the marriage ceremony of PATRICIA A. SZEKELY and JAMES L. SZEKELY.
2. This temporary appointment shall be solely for the purpose of performance of this marriage ceremony and for no other reason. Similarly, no additional authority is granted hereby other than to perform said ceremony and to execute any and all documents which may be necessary in order to effectuate the provision of this Resolution and to confirm the performance of the marriage ceremony as described above.

BE IT FURTHER RESOLVED that the City Clerk be and he is hereby authorized and directed to forward certified copies of the within Resolution to Councilman LOUIS G. ALOIA, and the City Attorney.

On call of roll, Ayes 4,  
Vacancy 1

(Sgd) Louis G. Aloia  
Tana M. Raymond

Resolution No. 12-109

Resolution Opposing Senate Bills 1451 and 1452

WHEREAS, legislation has been introduced to reform and modernize both the Open Public Meetings Act (S-1451) and the Open Public Records Act (S-1452); and

WHEREAS, the governing body of the City of Garfield agrees and supports the statement that "the right of the public to be present at all meetings of public bodies, and to witness in full detail all

RESOLUTIONS

phases of the deliberation, policy formulation, and decision making of public bodies, is vital to the enhancement and proper functioning of the democratic process”; and

WHEREAS, the changes, however, proposed in S-1451 will not only be a cost driver for local and State government but make government less effective; and

WHEREAS, include among the costly unfunded mandates, impractical requirements and impediments to the democratic process new requirements of S-1451 are the following:

- A new definition of subcommittees that expands subcommittees to be overly inclusive so that, for example, even research projects assigned to one member of a public body could be covered; and
- A new requirement that all subcommittees meetings include notice of their meeting and the preparation of minutes, which would, among other things, necessitate additional administrative support for all meetings of subcommittees as well as increased legal advertising cost; and
- A new requirement that agendas provide a description of all agenda items, including the names of parties to and approximate dollar amounts of any contracts to be acted upon, which will delay the award of contracts and could lead to the loss of grant monies; and
- A new requirement that the governing body may discuss, but not act upon, an item brought up by a citizen at a public meeting if it was not published as an agenda item, that not only runs contrary to the time honored tradition of holding a public meeting for the very purpose of soliciting such input and acting upon it but is impractical, ineffective and unnecessarily inhibits the operations of municipal government; and
- A new requirement for advance notification of estimated start times for the public portion of the meeting and the portion of the meeting from which the public is to be excluded that is unworkable and disruptive; and
- A new requirement that recordings of meetings become a part of the minutes that renders the recordings a permanent municipal record and is not only counter to the already-established records retention schedule of Division of Archive and Records Management for such records but which will be costly to preserve the records to ensure that they are permanent; and
- A new requirement that electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting become part of the minutes and renders the recordings a permanent municipal record, is unworkable and unmanageable as the technology does not always exist to make “hard copies” or digital copies of text messages and the records custodian does not always have access to them, and which is an unprecedented expansion of the meeting concept; and
- A new requirement that public bodies be permitted to exclude the public from discussion of personnel matters only with the written consent of the employee and potentially affected employees which will inhibit the public bodies’ ability to take necessary actions on personnel matters and could lead to costly litigation; and
- A new requirement that comprehensive minutes that must include each member’s stated reason for their actions or vote, the identity of each member of the public who spoke, and summary of what was said, be made available to the public as soon as possible but no later than 45 days after the meeting that will not only be costly but the historical value of minutes will be lost in order to meet an arbitrary deadline; and

WHEREAS, the governing body of the City of Garfield agrees that government records should be readily accessible and transparent but there must be an appropriate balance between the need for openness and transparency in government and citizens’ reasonable expectation of privacy; and

RESOLUTIONS

WHEREAS, among the costly unfunded mandates and impractical new requirements of S-1452 are the following:

- The expansion of the definition of government record to include records that are required by law to be made, maintained or kept on file by any public agency that will lead to a records custodians to be in violation of OPRA for the non-existence of a government records created before their tenure with the public body; and
- The creation of a definition for “advisory, consultative or deliberative” material that may be contrary to the well established definition in case law leading to costly litigation; and
- The expanding of the definition of government record to include electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting that is unworkable and unmanageable as the technology does not always exist to make “hard copies” or digital copies of text messages, the records custodian does not always have access to the electronic communications and certain cell phone carriers will not provide this information without a subpoena; and
- The inclusion of a subjective definition for “reasonable” that may be contrary to the well established definition in case law leading to costly litigation; and
- A new requirement that any video or audio recordings or public meetings should be available in unedited form will be in direct violation of the Open Public Meetings Act requirement that requires the redacting of discussions in closed session until the matter can legally be released; and
- A new requirement on how to handle redactions and special services fees is time consuming and costly, especially considering that the Government Records Council has already addressed these procedures in their Custodians’ Toolkit, which should be codified; and
- A provision that permits the records custodian to advise a requestor that a government record is readily available on the public agency’s website; however, the bill requires the records custodian to directly provide the records to the requestor if they do not have access to a computer but does not define what is meant by “access to a computer”; and
- A new costly requirement that when there is a special service charge the requestor must be provided, at no cost, an index generally describing the responsive government records to be provided and to the greatest extent possible the index shall include the name of each record or brief description of the record or general categories of records, a detailed breakdown of how the special charges were assessed and if records are exempt or redacted, the records custodian must provide a description of those records; and
- A provision that prohibits the assessment of a special service charge for requests for budgets, bills, vouchers, contracts and public employee salaries and overtime unless the request is deemed voluminous, which is undefined and subjective; and

WHEREAS, the provisions of S-1451 and S-1452 place financial, time, manpower and other burdens on municipalities at a time when municipalities are forced to layoff municipal employees, impose furloughs and reduce departmental budgets so that municipalities can meet the strict CAP requirements with decreased revenues and increasing operating expense; and

WHEREAS, the totality of the new requirements of S-1451 and S-1452 will be a significant cost driver for local and State government with no known appropriation contemplated or any alternate means to offset these costs, such a reasonable increase in fees; and

WHEREAS, while the governing body of the City of Garfield strives for and agrees that open and transparent government is essential to the democratic process, the provisions of S-1451 and S-1452 will make government inefficient;

RESOLUTIONS

NOW, THEREFORE, BE IT RESOLVED that the governing body of the City of Garfield, Bergen County, and State of New Jersey for reasons stated above, does hereby oppose S-1451 and S-1452, as currently drafted, and strongly urges the State Senate and Assembly to oppose these bills; and BE IT FURTHER RESOLVED that a copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Senator Barbara Buono, Senator Shirley Turner, Assembly Speaker Shelia Oliver, Assemblyman Gordon Johnson, Assemblyman Upendra Chivukula, the legislators of the 35th State Legislative District, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks' Association of New Jersey.

On call of roll, Ayes 4,  
Vacancy 1

(Sgd) Louis G. Aloia  
Tana M. Raymond

Resolution No. 12-110

RESOLVED by the City Council of the City of Garfield, Bergen County, New Jersey that City Clerk Andrew J. Pavlica is hereby authorized and directed to advertise for the receipt of bids for the Summer Food Program for the year 2012 for the Recreation Department on Thursday, May 24, 2012 at 10:00 AM in the Conference Room in City Hall.

On call of roll, Ayes 4,  
Vacancy 1

(Sgd) Louis G. Aloia  
Tana M. Raymond

Resolution No. 12-111

WHEREAS, The Chief Financial Officer of the City of Garfield has identified the following escrow/trust balances held in escrow within the Trust Accounting, and are considered as un redeemable and:

WHEREAS, the Chief Financial Officer has deemed to cancel of record the following balances which are dated prior to December 31,2010 and

Luterzo, Micheal	75.50
Olechowski	2.35
Rebisz, Kathleen	13.75
Seminski, Andrej	49.23
Subzwar, Musrat	9.80
Vittorio Joseph	14.70
Kwak, Wojchiech	226.60
Ymeni, Florence	613.75
Zalarick	230.00
Kostovski	35.25
Ironman Enterprises	1,245.90
Garfield Ventures LLC	340.00
Esteves, Joseph	46.20
Sendas Deamor Church	224.55
Benavidez, Herbert	17.20
Rana Enterprises	73.90
Agoli, Zenel	471.75
Total	\$ 3,688.43

WHEREAS, All balances shall be forwarded to the current fund and treated as Miscellaneous Revenue Not Anticipated as Computer run, and;

Therefore, be it resolved that the Treasurer is hereby authorized to transfer funds in the amount of \$ 3,688.43 from the Escrow Trust Fund, and deposit said funds into the Current Account and credit Miscellaneous Revenue no Anticipated.

On call of roll, Ayes 4,  
Vacancy 1

(Sgd) Louis G. Aloia  
Tana M. Raymond

Resolution No. 12-112

See the following pages \_\_\_\_\_  
for the Temporary Capital Budget

BILLS AND CLAIMS

Resolution No. 12-113

RESOLVED by the City Council of the City of Garfield that the following bill No. 1513 covering Trust Other Account totaling \$100,000.00 and the Current Fund totaling \$3,152,679.02 and the Water Current Fund totaling \$123,806.41 and the General Capital Fund totaling \$47,124.84 and the Water Capital Fund totaling \$23,012.70 per attached Computer Lists, be ordered paid and the proper officers are hereby authorized to issue checks for same provided there are funds in the respective appropriations, and

BE IT FURTHER RESOLVED that the action of the Mayor, City Clerk and City Treasurer in issuing checks in payment on the Ratification List, which includes sixteen (16) items prior to the meeting, be ratified.

See

the

Following

Pages \_\_\_\_\_

for

Bills

and

Claims

ORDINANCES

Councilmember Aloia introduced in writing the following ordinance entitled:

“BOND ORDINANCE TO AUTHORIZE THE ACQUISITION OF A NEW LADDER FIRE TRUCK, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE CITY OF GARFIELD, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$995,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS AND FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS”.

City Clerk Pavlica read the ordinance by title.

Councilmember Aloia moved that this ordinance entitled: “BOND ORDINANCE TO AUTHORIZE THE ACQUISITION OF A NEW LADDER FIRE TRUCK, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE CITY OF GARFIELD, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$995,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS AND FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS”, do now pass on first reading and remain on file with the City Clerk for public inspection until public hearing thereon and further consideration thereof which shall be held April 18, 2012 at 8:00 PM in the City Hall in Garfield and that the City Clerk be directed to publish said ordinance in full together with the notice of such hearing in The Record, at least seven days prior to the hearing.

The motion, duly seconded by Councilmember Raymond, was on roll call adopted by the following vote and the motion was declared adopted and said ordinance passed on first reading: Ayes 4, Vacancy 1.

Councilmember Aloia introduced in writing the following ordinance entitled:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARFIELD AND, SPECIFICALLY, TO RESCIND AND REPEAL CHAPTER 179 OF THE CODE OF THE CITY OF GARFIELD ENTITLED “NOISE” AND REPLACE IT IN ITS ENTIRETY

Councilmember Aloia moved that this ordinance entitled: “AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARFIELD AND, SPECIFICALLY, TO RESCIND AND REPEAL CHAPTER 179 OF THE CODE OF THE CITY OF GARFIELD ENTITLED “NOISE” AND REPLACE IT IN ITS ENTIRETY”, do now pass on first reading and remain on file with the City Clerk for public inspection until public hearing thereon and further consideration thereof which shall be held April 18, 2012 at 8:00 PM in the City Hall in Garfield and that the City Clerk be directed to publish said ordinance in full together with the notice of such hearing in The Record, at least seven days prior to the hearing.

The motion, duly seconded by Councilmember Raymond, was on roll call adopted by the following vote and the motion was declared adopted and said ordinance passed on first reading: Ayes 4, Vacancy 1.

CITIZENS AND TAXPAYERS

Mr. Frank Vermeylen, 57 Schley Street, asked questions and spoke in favor of the reconstruction of the stairs from Schley Street to Cedar Street and the stairs from Schley Street to Palisade Avenue.

EXIT OF CITY AUDITOR LERCH

At 8:25 PM, City Auditor Dieter Lerch left the meeting and it was duly noted for the record.

CITIZENS AND TAXPAYERS

Mr. Fayem Chaydry, 40 Midland Avenue, spoke on the Resident Parking Sticker Program, on a request for a street light in his neighborhood, and on water billing services provided by the Passaic Valley Water Commission.

Mr. Ciro Disclafani, 47 Orchard Street, spoke on crosswalks in the County Roads, asked questions concerning the Noise Ordinance introduced this evening, said that he suspects that there is an illegal auto body repair business being conducted in the garage at 47 Orchard Street, spoke on shade trees being cut down in his neighborhood without being replaced, spoke on the City Community Forestry Program, spoke on the need for sidewalks along River Drive and complained that the auto sales/auto body business at Belmont Avenue and River Drive park cars on the sidewalk.

Mr. Mike Ramadani, 167 Malcolm Avenue, spoke on the City closing of the Friends Albanian Coffee Shop located at the intersection of Charles Street and Gaston Avenue.

Mr. Dimitar Gunjurovski, 36 Prescott Street, spoke on the properties he owns at 347-349-351 Lanza Avenue and 14 Outwater Lane and the difficulties making money off those properties.

Mr. Zorand Trajkoski, 12 Empress Court, Freehold, New Jersey, said that he is the property owner of 92 Gaston Avenue and said that he was advised that the certificate of occupancy of the Friends Albanian Coffee Shop was evolved and he asked questions concerning this matter.

COUNCILMEMBER COMMENTS

Councilmember Raymond spoke on the Resolution opposing Senate Bills No. 1451 and 1452 and on the Bond Ordinance for a new Fire Truck. She wished everyone a Happy Easter.

Councilmember Delaney wished everyone a Happy Easter. He spoke on the need for new shade trees and the need to repair the stairs at both ends of Schley Street on top of Belmont Hill. He spoke on the elimination of the Fourth of July Fireworks and the Memorial Day Parade and commented on other ways to save money in the City Budget. He again wished everyone a Happy Easter.

Councilmember Aloia spoke on neighborhood complaints concerning the Friends Albanian Coffee Shop. He said that trees are a blessing and that we need more trees. He spoke on the small VFW Memorial Day Ceremony that is now observed and said that maybe now a better program can be devised to honor the valor of the veterans. He wished everyone a Happy Easter.

Mayor Calandriello spoke on the City Budget and heeding the advice of the City Manager. He commented that the Memorial Day Parade was discontinued at the request of the Veterans, but perhaps there is a fitting way to give due recognition that the Veterans deserve in another way. He wished everyone a blessed Holy Week.

CLOSED SESSION

Resolution No. 12-114

WHEREAS, N.J.S.A. 10:4-12 allows for a public body to exclude the public from a meeting in certain circumstances, and

WHEREAS, the City Council is of the opinion that such circumstances now exist,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Garfield, Bergen County, New Jersey, that a "Closed Session" is hereby called at 9:35 P.M. Tuesday, April 3, 2012, to discuss the following as outlined in N.J.S.A. 10:4-12:

- \* Collective bargaining agreements including the negotiation of the terms and thereof with employees or representatives of employees of the public body; (blue collar and white collar collective bargaining negotiations).

CLOSED SESSION

- \* Matters involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds; (appraisal of the Benda-Roehrich VFW Post No. 2867 property located at 340 Outwater Lane).
- \* Tactics or techniques utilized in protecting the safety and property of the public or any investigation of violations or possible violations or the law; (the closing by the Building and Police Department of the Friends Albanian Coffee Shop).

BE IT FURTHER RESOLVED that the matters so discussed will be disclosed to the public as soon as and to the extent that such disclosure can be made without adversely affecting the public interest or without violation of the confidentiality of personnel.

On call of roll, Ayes 4,  
Vacancy 1

(Sgd) Louis G. Aloia  
Tana M. Raymond

RECESS, CHANGE OF VENUE, RETURN TO ORDER  
AND EXIT OF CITY OFFICIALS

Immediately after the City Council voted to go into Closed Session a short recess was called to move the meeting down the hall to the second floor Conference Room. At 9:40 PM, the meeting was again called to order in the second floor Conference Room and all City Officials, were presented as before the recess with the exception of City Engineer Kevin J. Boswell, Interim Chief Financial Officer Roy Riggiano and Emergency Management Coordinator Michael Marsh. It was duly noted for the record.

EXIT OF POLICE CHIEF AMOS, FIRE OFFICIAL WALIS AND  
SUPERINTENDENT OF PUBLIC WORKS GAROFALO

At 9:45 PM, Police Chief Kevin Amos, Fire Official Gerald Walis and Superintendent of Public Works, Sam Garofalo left the meeting during Closed Session and it was duly noted for the record.

ADJOURNMENT

After the City Council came out of Closed Session at 10:15 PM, there being no further business Councilmember Delaney moved to adjourn the meeting. Councilmember Aloia duly seconded the motion.

On call of roll, Ayes 4,  
Vacancy 1

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Andrew J. Pavlica, CITY CLERK

